



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN**

**GERALD C. MANN
ATTORNEY GENERAL**

**Hon. A.M. Fribble
County Attorney
Mills County
Goldthwaite, Texas**

Dear Sir:

Opinion No. 01623

Re: Does the commissioners' court of a county have the authority to purchase and maintain scales for a public weigher?

We are in receipt of your request for an opinion on the following question together with your helpful brief on the matter:

"Does the Commissioners Court of a county have the authority to purchase and maintain scales for a public weigher?"

The commissioners' court is a creature of the Constitution of Texas, and its powers are limited by the Constitution and the laws passed by the Legislature, and it must have authority of law, express or implied, for its acts.

**COMMISSIONERS' COURT OF MADISON COUNTY vs. WALLACE
ET AL, 118 TEX. 279, 15 S.W. (2d) 535;
EL PASO COUNTY vs. ELAM, 106 S.W. (2d) 593.**

Under the head of "powers and duties", Article 2351 to Article 2372f, Vernon's Annotated Civil Statutes, Title 44, "Courts-Commissioners", we find no statutory authority for the purchase and maintenance of scales for a public weigher by the commissioners' court of a county.

Nor is such authority conferred by the Constitution.

**ARTICLE V, SECTIONS; 8, 16, 20, 21, 23, 24, 25, 29;
ARTICLE VII, SECTION 6;
ARTICLE VIII, SECTION 18;
ARTICLE IX, SECTION 3;
ARTICLE XVI, SECTION 40.**

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Articles 5680 to 5704, Vernon's Annotated Civil Statutes, relating to "Public Weigher" do not provide for the purchase and maintenance of scales for a public weigher by the commissioners' court of a county.

We recognize the fact that the commissioners' court has implied authority to do what may be necessary in the exercise of the duties conferred upon it. EL PASO COUNTY vs. ELAM, supra. Therefore, we are not passing upon the question of whether or not the commissioners' court may purchase scales to be used by the county for county business. But there is no more implied authority for the commissioners' court of a county to purchase and maintain scales for a public weigher than there is express authority in the Constitution or the statutes.

It is our opinion that under the Constitution of Texas and the existing statutes relating to the powers of commissioners' court and the office of public weigher the commissioners' court of a county has no authority to purchase and maintain scales for a public weigher.

Trusting we have answered your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Dick Stout
Dick Stout
Assistant

DS:ob

APPROVED NOV 3, 1939

Gerard B. Mann

ATTORNEY GENERAL OF TEXAS

